

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

AUG 22 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of  
Southwestern Bell Telephone  
Company's Comparably Efficient  
Interconnection Plan for the  
Provision of Security Service

CC Docket Nos. 85-229, 90-623 and 95-20

DOCKET FILE COPY ORIGINAL

To: The Common Carrier Bureau

REPLY OF THE ALARM INDUSTRY COMMUNICATIONS COMMITTEE  
IN SUPPORT OF ITS  
MOTION TO HOLD IN ABEYANCE

The Alarm Industry Communications Committee ("AICC"), by its attorneys, hereby  
replies to the Opposition filed by Southwestern Bell Telephone Company ("SWBT") in the  
above captioned docket.<sup>1</sup>

AICC and SWBT agree on two things: (1) they have dramatically opposing  
interpretations of Section 275 of the Communications Act,<sup>2</sup> and (2) the Commission likely  
will resolve this disagreement in CC Docket 96-152.<sup>3</sup> AICC believes that the logical

<sup>1</sup> *Southwestern Bell Telephone Company's Comments in Opposition to Motion to Hold in  
Abeyance*, filed August 12, 1996 ("SWBT Opposition").

<sup>2</sup> 47 U.S.C. § 275.

<sup>3</sup> *Telemessaging, Electronic Publishing and Alarm Monitoring Services*, CC Docket No.  
96-152, *Notice of Proposed Rulemaking*, FCC 96-310 (rel. July 18, 1996).

implication of these two facts is that the Bureau should refrain from acting on SWBT's proposal until the basic question of whether it is legal for SWBT to provide the service has been answered. Any other course of action either prejudices the Commission's pending rulemaking or runs the risk of wasting the Bureau's time and resources.

SWBT, on the other hand, urges a "see no evil, hear no evil" approach.<sup>4</sup> In its view, the Bureau is limited to checking off boxes on a CEI form, performing its task in blissful ignorance of all that is around it.<sup>5</sup> To SWBT, the questions of whether the activity for which it seeks approval is itself a lawful activity -- and whether that question will be answered elsewhere -- are "unrelated" and "not germane" to the Bureau's task.<sup>6</sup>

AICC is hard pressed to see how SWBT's approach comports with sound policy or the efficient administration of the Commission's resources. The only support for SWBT's novel proposition is alleged to be the Bureau's recent consideration of a Bell Atlantic proposal to provide Internet access service.<sup>7</sup> However, that order did not purport to authorize Bell Atlantic to engage in an activity that is unlawful, nor did it rule that the question of the lawfulness of Bell Atlantic's proposal was irrelevant. In fact, when confronted with the issue of whether Bell Atlantic would be in violation of Sections 271 and 272, the Bureau squarely addressed the issue, holding that Internet access, like exchange

---

<sup>4</sup> *SWBT Opposition*, at 1-2.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> *Id.* at 2, 8.

<sup>7</sup> *Bell Atlantic Telephone Companies, Offer of Comparably Efficient Interconnection to Providers of Internet Access Service*, CCB Pol. 96-09, *Order*, DA 96-891 (rel. June 6, 1996).

access, did not involve the interLATA transmission of data by Bell Atlantic.<sup>8</sup> Then, to further emphasize that CEI approval cannot extend to unlawful activities, the Bureau specifically held that the extent Bell Atlantic might be permitted to offer Internet services on an interLATA basis would be determined in a separate rulemaking.<sup>9</sup> Thus, Bell Atlantic does not allow the Bureau to shield its eyes from the proposal's consistency with Section 275 of the Act.

In summary, AICC believes the circumstances warrant granting of its motion. SWBT's CEI plan cannot be approved if the underlying activity it wishes to engage in is unlawful. Whether that activity is consistent with Section 275 or in violation of it will soon be answered by the Commission in Docket No. 96-152. Given this, the Bureau should not attempt to resolve the issue in advance of the rulemaking. Instead, it should withhold consideration of SWBT's CEI compliance until the threshold question of the plan's lawfulness is resolved.

---

<sup>8</sup> *Id.* at ¶ 50.

<sup>9</sup> *Id.* at ¶ 51.

## CONCLUSION

For the foregoing reasons, the Bureau should grant AICC's Motion to Hold in Abeyance its consideration of SWBT's CEI Plan until the Commission's rulemaking established in CC Docket No. 96-152 is completed.

Respectfully submitted,

**ALARM INDUSTRY  
COMMUNICATIONS COMMITTEE**

By: 

Danny E. Adams

Steven A. Augustino

John J. Heitmann

**KELLEY DRYE & WARREN LLP**

1200 19th Street, N.W.

Suite 500

Washington, DC 20036

202/955-9600

Its Attorneys

August 22, 1996

## CERTIFICATE OF SERVICE

I hereby certify that on August 22, 1996, I caused copies of the foregoing "Reply of the Alarm Industry Communications Committee in Support of its Motion to Hold in Abeyance" to be delivered by First Class Mail to the following:

\* William F. Caton  
Acting Secretary  
Federal Communications Com.  
1919 M Street, N.W.  
Room 222  
Washington, DC 20554

\* Janice Myles  
Common Carrier Bureau  
1919 M Street, N.W.  
Room 544  
Washington, DC 20554

\* ITS  
2100 M Street, N.W.  
Room 246  
Washington, DC 20037

Robert M. Lynch  
Durward D. Dupre  
Michael J. Zpevak  
Darryl W. Howard  
Southwestern Bell Telephone Co.  
One Bell Center  
Room 3520  
St. Louis, MO 63131

\* Todd F. Silbergeld  
Director, Federal Regulatory  
SBC Communications, Inc.  
1401 I Street, N.W.  
Suite 1100  
Washington, DC 20005

Stephen S. Schulson  
Richard L. Hatka  
Frank M. Panek  
Counsel for Ameritech  
30 South Wacker Drive  
39th Floor  
Chicago, IL 60606

\* Mary Beth Richards  
Deputy Chief  
Common Carrier Bureau  
1919 M Street, N.W.  
Room 500  
Washington, DC 20554

\* John Muleta  
Chief, Enforcement Division  
Common Carrier Bureau  
2025 M Street, N.W.  
Room 6008  
Washington, DC 20554

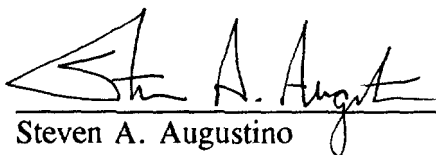
\* Claudia Pabo  
Attorney  
Policy & Program Planning Div.  
Common Carrier Bureau  
1919 M Street, N.W.  
Room 544  
Washington, DC 20554

\* Carol Matthey  
Deputy Chief  
Policy & Program Planning Div.  
Common Carrier Bureau  
1919 M Street, N.W.  
Room 544  
Washington, DC 20554

\* Richard Welch  
Chief  
Policy & Program Plan Div.  
Common Carrier Bureau  
1919 M Street, N.W.  
Room 544  
Washington, DC 20554

\* Michelle Carey  
Attorney  
Policy & Program Planning Div.  
Common Carrier Bureau  
1919 M Street, N.W.  
Room 544  
Washington, DC 20554

\* Regina Keeney  
Chief  
Common Carrier Bureau  
1919 M Street, N.W.  
Room 500  
Washington, DC 20554

  
Steven A. Augustino

\* Hand Delivered